

HEALTH COMMITTEE meeting of March 8, 2000

A regular meeting of the Health Committee of the Suffolk County Legislature was held in the Media Room, First Floor of the H. Lee Dennison Building, Veterans Memorial Highway, Hauppauge, New York, on March 8, 2000, at 9:30 A.M.

Members Present:

Legislator Ginny Fields - Chairperson
 Legislator Brian Foley - Vice-Chair
 Legislator Joseph Caracappa
 Legislator Andrew Crecca
 Legislator Michael Caracciolo

Also In Attendance:

Paul Sabatino - Counsel to the Legislature
 Mary Skiber - Aide to Legislator Fields
 Linda Burkhardt - Aide to Presiding Officer Tonna
 Kimberly Brandeau - Legislative Budget Analyst/Budget Review Office Bonnie Godsman - County Executive's Office/IR
 Clare Bradley - Commissioner/SC Department of Health Services
 Robert Maimoni - SC Department of Health Services
 Lori Benincasa - SC Department of Health Services/Administration
 Richard LaValle - Chief Deputy Commissioner/Dept of Public Works
 Leslie Mitchel - Assistant to the Commissioner/Dept of Public Works Dominick Ninnivaggi - Superintendent of Vector Control/DPW
 Nancy Manteiga - 2nd Vice-President/AME
 Lou Cherry - Director/Mental Health Association
 Lisa Greene - Certified Mental Health Planner
 James Farr - Mental Health Association
 Helen Bell - Mental Health Association
 Elsa Ford - Brentwood/Bay Shore Breast Cancer Coalition
 All Other Interested Parties

Minutes Taken By:

Alison Mahoney - Court Stenographer

(*The meeting was called to order at 9:40 A.M.*)

CHAIRPERSON FIELDS:

Good morning. Could we stand for the Pledge of Allegiance led by Legislator Crecca.

Salutation

Okay. We have a few cards, so I think we'll do the cards first. Kevin McAllister, come on up.

MR. McALLISTER:

We would like to come up as a group, if we may.

CHAIRPERSON FIELDS:

So it's -- introduce yourselves when you all come up, please.

MS. O'KANE:

Good morning, my name is Debbie O'Kane, I'm here representing the North Fork Environmental Council.

MS. HAMLIN:

Hi, I'm Amie Hamlin from the New York League of Conservation Voters, Long Island Chapter.

MS. MAKINAJIAN:

Hi, I'm Christina Makinajian, NOFA-NY, North East Organic Farmer's Association.

MR. McALLISTER:

Goodmorning. Kevin McAllister, the Peconic Bay Keeper.

MS. FORD:

Elsa Ford, Brentwood/Bay Shore Breast Cancer PTA, Environmental Chair and Brentwood/Bay Shore Breast Cancer Coalition.

MS. O'KANE:

We're here this morning, we're representing a coalition of about 20 different organizations based all over Long Island. We have been reviewing the West Nile Response Plan that was the draft version that was distributed by the New York State Health Department and we would like to make some comments about that and some recommendations about that plan.

Number one, we would like to advocate a ban on all aerial spraying of pesticides as they would relate to any West Nile response here in Suffolk County. We firmly believe that the risks to humans, wildlife and the environment preclude the necessity for aerial spraying. At a public hearing on March 2nd hosted by Senator Marcellino, neither Mr. Cowen nor Mr. Palmer of the New York State DEC could provide conclusive evidence on the effectiveness of last year's broadcast spraying.

The response plan speaks of surveillance, monitoring and the use of larvicides in the control of mosquitoes. These strategies will provide a solid foundation for mosquito control. If the West Nile Virus resurfaces and only when other measures appear to be limited, controlled, targeted ground spraying may need to be implemented but only as a last resort.

The pesticide Malathion which was used extensively in New York City is currently being considered by the U.S. EPA for reregistration as a possible low level carcinogen. I have some information that I would like to share with you about Malathion.

I also have some information, some written information that you can read if you are interested about Pyrethroids. Pyrethroids may also -- Pyrethroids can be highly toxic to bees, fish, lobsters and other aquatic invertebrates. Pyrethroids may also cause allergic reaction and respiratory illness in humans. Therefore, Pyrethroids should only be used, once again, as a last resort and applied only in targeted, controlled spraying.

We would also like to ask that full disclosure of all potential health risks of the pesticides being considered for use, including larvicides and adulticides, be provided to the public. This disclosure must include potential impacts on all human beings and not limited to healthy adults, but including infants and children, pregnant women, the elderly and the immune-compromised.

The New York State Response Plan does include a public education component and speaks of educating the public on how to reduce mosquito breeding grounds and how to avoid being bitten by mosquitoes. It falls short in that it fails to address educating the public at large on the potential risks of pesticide use. The public communication section of this response plan also speaks of the need for educating health care providers about the virus and its prevention, along with diagnosis and treatment of the disease. Once again, the report falls short in the area of pesticide education and we recommend that all of our local health care providers receive educational information on diagnosing pesticide poisonings. Additionally, all suspected cases of pesticide poisoning should be reported to the local health departments.

One last recommendation I would like to make, and I can attest to this personally. Last year the Suffolk County Health Department, or the Department of Health Services, authorized the distribution of the insect repellent Deet to local schools and health care centers. My four year old attends a day care center in Riverhead and in October I was offered a can of Cutter Insect Repellant with a 21.85% Deet concentration along with an information sheet on Deet tips from the nursery school director.

Back in 1991 in a report on Deet from the Bureau of Toxic Substances, New York State Department of Health, it was stated that several cases of Toxic Encephalopathy associated with the use of Deet had been reported in medical literature, seizures in children were also reported. The EPA also ruled in 1998 that Deet could no longer be considered child safe. If the EPA ruled in 1998 that Deet could not be considered child safe, why did the Health Department in 1999 distribute Deet to parents for use on children as young as 18 mosquitoes old? We would like to recommend that the Health Department, if these circumstances should arise again, provide a list of non toxic alternatives. We feel very strongly that one risk cannot be substituted with another. Thank you.

LEG. CARACAPPA:

Thank you.

CHAIRPERSON FIELDS:

Thank you.

MS. HAMLIN:

There's been much focus on West Nile Virus the disease and the fact that it can kill or make people very sick. There's been very little focus on the fact that most people bitten by a mosquito infected with West Nile Virus will not even know it; most people bitten by such mosquitoes are non symptomatic. There seems to be little or no focus on the dangers of pesticides. We believe that it is absolutely necessary that any education done by the County about the dangers of West Nile Virus also include the dangers of pesticides, only then can people make informed decisions, when they understand that there are risks involved regarding both West Nile Virus and pesticides.

It is our understanding that Malathion will be added to the EPA list of known carcinogens. It is also known that the inerrant ingredients in Pyrethroids include known carcinogens as declared by the U.S. EPA. Lobster, shrimp and most fish are threatened by Pyrethroids. Honey bees beneficial insects are also at risk. Pesticides pose serious dangers to humans, wildlife and the environment; the use of pesticides must be assessed against the long-term dangers posed by the use of pesticides. We expect the Suffolk County Health Department and the Suffolk County Legislature to protect the public health, not to put them at risk. Therefore, we expect that any public communication or education include those risks and dangers of pesticides, as well as those of West Nile Virus.

When all we hear about is the disease it sounds very scary. But when we put the morbidity and mortality of west nile virus into perspective and also consider the dangers of pesticides, we get a different picture, one which paints a story of danger of both sides. Last year there were no known deaths -- there were no deaths and no human illnesses caused by West Nile Virus in Suffolk County, In Nassau County there were just six known cases. We can't see how spraying of pesticides can be justified given the very low occurrence of West Nile Virus and it seems that the risk of pesticides could outweigh the risk of the virus itself. We'd hate to see ten years down the road another DDT like situation.

Given the preventive and monitoring measures that are being put into place this year and the fact that we had no human cases of West Nile Virus in Suffolk County last year, we would expect that there would be no justification for spraying this year. In the event that the County does decide to spray, we expect that the County, like Rockland County, would declare a ban on aerial spraying. We expect that the County will adhere to previously established guidelines and protocol that have been made public; I am not saying these already have been made public, but I'm asking that they be made public. We expect that these guidelines and protocol will be based on science rather than fear. The major environmental and cancer groups should be included in establishing these guidelines. It's interesting to note that the populations that are at risk for the most serious consequences of West Nile Virus are also the populations that are at most serious risk for having adverse

effects from pesticides.

I also want to mention something about what the State is doing, and though I realize you have no control over it, I still want to make this statement. We are strongly against the State DEC Landscape Pesticide Training which is going to be occurring on the 13th and 14th on Long Island of this month, teaching applicators to use pesticides for control of West Nile Virus. Under these circumstances, we could expect to see the use of pesticides rise based on individual home and business owners fears of West Nile Virus. Again, we must strongly consider that the pesticides used pose cancer and other risks which could far outweigh the risks of West Nile Virus.

And I have a question that I want to ask, maybe the Health Department knows the answer, I know the Health Commissioner is here. I am interested to know if there is any protocol set up what circumstances would have to occur to commence spraying, specifically human illness, animal illness, human death? I would like to know that there is something very specific set in place so that it just doesn't happen because there's pressure on the Legislators or pressure that this is a scary thing. Also, I would like to specifically know what constitutes an emergency and what constitutes an epidemic. So those are some questions I have. And the other thing I wanted to ask is I understand there's a public hearing on Tuesday for spraying as a last resort resolution or something, and I just wondered if you could mention that.

CHAIRPERSON FIELDS:

No, it's on the 14th?

MS. SKIBER:

The following meeting.

CHAIRPERSON FIELDS:

It's the following meeting that it will be on for a public hearing, the following Legislative Meeting which is --

MR. SABATINO:

March 28th.

CHAIRPERSON FIELDS:

March 28th, thank you.

MS. HAMLIN:

Oh, so it's the next meeting of this committee.

CHAIRPERSON FIELDS:

No, of the actual whole Legislature.

MS. HAMLIN:

Oh, okay. What time is that?

CHAIRPERSON FIELDS:

Nine thirty in Riverhead, usually.

LEG. CARACAPPA:

The public hearing will be 2:30 in the afternoon.

CHAIRPERSON FIELDS:

Right, the meeting starts at 9:30.

MS. HAMLIN:

Okay. Okay, thank you for your attention to this matter. And I'm hoping that maybe later the Health Commissioner could

address those questions about what constitutes an emergency, what constitutes an epidemic; I don't know if this is the appropriate place for that or not.

CHAIRPERSON FIELDS:

No, it is. Thank you.

MS. HAMLIN:

Thank you.

MS. MAKINAJIAN:

Representing NOFA, Northeast Organic Farmer's Association. In your report there's no mention of natural predators of the mosquito, there have been -- there are many native birds and mammals which prey on mosquitoes, the obvious examples are Bat and Purple Martins. It would make an excellent economic and ecological sense to increase natural habitats for these predators and encourage their repopulating old habitats. Spraying any toxic substance will reduce the number of these natural predators as they ingest sprayed mosquitoes and is, therefore, counterproductive.

(*Legislator Foley entered the meeting at 9:53 A.M.*)

There are several organic farms and many organic gardens in the area included in your report, the produce of these farms and gardens derive its value by being free of toxins. Because the drift from spraying can travel up to twelve miles, there is no way in which the purity of this produce can be protected from the aerial drift. The farmer derives its livelihood and the garden for substance from organically grown fruits and vegetables; is the State willing to reimburse these farmers and gardeners for the loss of their crops? The possibility of legal redress for such loss is real.

The entire population of Long Island derives its drinking water from underground aquifers and its air from above ground sources. Any toxic which is applied to these mosquitoes, force fields or ponds will find its way into the aquifer and the air and into the people throughout Long Island. The drinking water which has been thus contaminated many -- may remain so for many years, the recent report by the Suffolk County Health Department on the state of our drinking water is an obvious example. Many of the chemicals found in the drinking water today are derived of insecticides applied to the field more than 20 years ago. The application of any toxic substance which will be taken into the bodies of Long Island residents as well as the insect target, this is not a public-- this is not in the public's interest.

And as a personal organic farmer, I did lose subsequently almost three weeks of produce, of picking last year due to the spraying. And I have seen my little niece who is only one and a half year old have an asthma attack due to the spraying and her reaction, and I've heard from many of my customers their own testimony of their reaction to the spraying of breakouts, trouble breathing. And it's just a shame that these little kids have no choice of what is happening to them, and I would hate to see down the road that more problems are found in the drinking water. And that's it.

CHAIRPERSON FIELDS:

Thank you.

MR. McALLISTER:

Good morning again Kevin McAllister, Peconic Bay Keeper. I guess I would like to open by stating I am fundamentally opposed to any pesticide ban, I mean any pesticide use in title marshes. And I want to go a step further and say that I am opposed to the physical alterations in the title wetland areas as well, mosquito ditching.

If I may take a moment, I want to try to educate you a little bit on the estuary, the productivity both, we're talking about the Peconic system as well as south shore system. Title wetlands are a very important component to the productivity in these areas. Estuaries by definition are semi-enclosed, there is a high contribution of fresh water coming into the system and it really bodes to the life that it supports, they are bread baskets of the sea. When you look at the title marsh systems, they I guess for analogy or really the kidneys of that estuary. Again, roughly 25% of the fresh water enters through surface water runoff. So when we're coming off of say suburban areas that may -- off of road runoff, off of people's properties, that fresh

water component is laden with chemicals as it is, fertilizers, pesticides, EOC's from the roadway, etcetera. As it moves and conveys through the title marsh system, there are biological and chemical processes that go on that actually in many cases make harmful, toxic chemicals benign before they enter the surface water area. Again, it's a filtration system that's very critical to the purification of the fresh water entering the bays. Further, I mean, obviously the title wetlands themselves serve as critical nursery grounds for a lot of them, finfish, invertebrate larvae, eggs, etcetera, that come into these bays, they utilize these areas.

Back, you know, roughly 25 years ago there was a pretty aggressive campaign to mosquito ditch a lot of these title wetland areas. In my opinion, that had really been starting to be phased out over time. Roughly in the 60's we started to have a greater public awareness of the value of title wetlands and the fact that altering them in this fashion was detrimental to the health of the bays.

And I want to point out one thing. As we carve open these title wetlands, we're conveying that fresh water much more quickly into the open waters. In particular, there's coliform bacteria that's coming off of the roadways, fecal coliform. When it enters these title marshes that have been carved up, it's being expediently transferred out into open waters, in a lot of cases taken up by shellfish. It's harming baymen's ability to harvest clams and other shellfish out of these areas. Again, we have to revert back to a natural system, that's the essence of it. It was my feeling that, again, through education and public awareness, since the 60's we had an understanding of that and Suffolk County for one had been backing off from that.

I am very concerned and very disturbed that, you know -- and forgive me for sounding insensitive to human health concerns, but we have to balance ecological benefits here, you know, the health of the bays. I really think since last summer with the Encephalitis scare that, you know, there is somewhat of a knee jerk reaction to not only become more aggressive in the management or opening up of these title marshes, to drain them off, and also, again, the chemical applications. Ms. O'Kane pointed out the effects from Malathion. I mean, clearly we're utilizing, or I should say the shellfish or finfish stocks are utilizing these title wetlands. By this wholesale spraying, whether it be aerial or even on surface spraying with some of these broad spectrum pesticides, we're knocking out a lot of the marine life that potentially could be produced from these areas.

We were at a meeting actually with Mr. Ninnivaggi a couple of weeks ago out in East Hampton and there was a bayman there, and he pointed out that in fact he recalls on several occasions when Malathion was sprayed that within a day or two there was an incident of a fish kill out there; this is unacceptable. The Peconic Estuary Program, certainly as a national estuary, it's multi agencies, we have been spending millions of dollars to protect long-term health for this estuary. There is a notation in that comprehensive plan, the master plan for managing it, that we should really be kind of moving away from this practice of mosquito ditching as well as chemical applications, that's made clear.

And again, I am disturbed by the fact that we are becoming more aggressive here. I understand there is a human health concern, we have to deal with that, but do not do that at the expense of the estuary and the life it supports. Because if you want to talk about economic, you know, balance and economic importance, I mean, we're talking millions and millions of dollars, both on the south shore as well as the Peconic system. Please, I encourage you to support a ban on pesticides and please give serious consideration about starting to roll back and cease the wholesale carving of our title wetlands. Thank you.

MS. FORD:

I would like to start with prevention, that it must be a priority that is reflected in funding and County reimbursement. Also, public education must be adequately funded and designed with community coalitions. What public information is available from the past season from testing and monitoring, pesticide information offered to the public should include what is known and what is not known. When I looked at the plan, I have all the pages marked that show absence of information, that we can't make assumptions about the safety of pesticides when there is so much information missing. The one that struck me the most was Malaoxon, that is a breakdown product of Malathion which is so much more persistent and so much more toxic than Malathion. And there is some information about Malathion, but when you come to Malaoxon, the one that we

should really be concerned about, the page is blank pretty much, there isn't enough information. So in this case we should certainly be taking the precautionary approach where there is so little information.

And also, when we talk about the effect of the pesticides, we need to talk also about what is not known or what has not been studied, really. Also, there should be very good information on strategies to minimize the West Nile Virus with focus on individual protection prevention as well. And I think that community people need to be part of developing this testing with results back to the individuals and communities.

In the Brentwood Country Club there was a dead crow that was sent for testing, but I called, PTA asked me to call about whether that crow was infected or not and I had a good deal of difficulty getting any information back except to say, "Well, if you didn't hear it's okay", you know, but that's not good enough. We really want to know in our community that crow was tested, was it positive, was it negative.

CHAIRPERSON FIELDS:

Who did you call to get that information, or the lack of information?

MS. FORD:

I called the public number, the number for the Health Department that was advised that I call.

CHAIRPERSON FIELDS:

Suffolk County Health Department?

MS. FORD:

Yes, I called that number. And also, the people in Queens, they tested their blood but the individuals didn't get reports back as to the results of those blood tests. So I think that there's -- that the scientists may feel that they are in charge of the information and they need to have the answers, but people in the community need to have reports back; if I give my blood, I want to know was my blood negative or positive, you know, and that's not part of the process at this point.

There is also a number of problems with pesticides. Debbie mentioned that Deet is not child safe; Malathion, there is not -- warnings do not advise on the breakdown times. There's very -- there's a general advisory about what is -- when it's safe to go out into the lawns or wherever this has been sprayed, but there are a lot of variations in there depending on the weather, on the sun, and some of these products can last many weeks in the environment and that's generally not included in public advisories.

We also agree that there should not be aerial spraying since -- and with the rest of the groups here.

So far as surveillance I really look to a veterinarian, Dr. Tangretti, who offered some really good information. I think there should be some kind of a local advisory committee that includes experts from the -- local experts in the various fields like Kevin or Dr. Tangretti and other community people to sort of -- to work with the Health Department to address all the questions that come up. Let's see, on the surveillance, Dr. Tangretti mentioned that in Orange County, California, they trap wild birds in designated areas, sparrows and house finches, and that these birds give warnings sooner than the Sentinel Chickens. And so I think in the case where we want to use preventative measures, that the sooner we know about the problem the better off we are in making the preventative measures work. And so -- especially where there is such a surveillance program being conducted in another community, I didn't see that in the plan and I thought that it should be in there.

The alternative strategies on the habitat approach for problem areas, one of the things mentioned in the report was that the larva raft did not develop where there were strong winds, so that those areas were not targeted as to be treated because of that fact. But it seems to me that that's telling us something, that if we could blow on the ponds and such that we would be breaking up those rafts or maybe there's a mechanical method of churning up the water to break up the rafts. Because once the larvae are separated, then they're more easily eaten by fish and such and so that they're not as protected as when they are in the rafts.

And the last thing that I wanted to ask was testing the birds for toxins as well as the virus. It's important that toxins including pesticides such as Malathion and the synthetic Pyrethroids be included in the test since they depress the immune system. In the plan I don't see any addressing of immune system depression, and really when the immune system is depressed does that make the virus more virulent than it would otherwise be? And so I think that you have to look at the whole picture of the toxins affect and the virus affect altogether.

And also, I understand, for example, in the lobsters that they tested for the parasite but they didn't -- they said they tested for toxins but I kept looking in the paper to see where are those test results, what happened with the toxins, and they didn't come back to the public notice anyhow, I don't know where else it might be. But I think that this whole thing is a life relationship that needs to be addressed together and not just the virus.

CHAIRPERSON FIELDS:

Okay, thank you. Legislator Caracappa?

LEG. CARACAPPA:

Thank you. I am going to play devil's advocate a little bit, because I think it makes for a little healthy debate on this issue. And you may not like what I have to say, but again, it's for the sake of information and sharing ideas. First of all, you mentioned, you know, government and politicians making knee jerk reactions to the problem, and you mentioned specifically the fish kill that you directly attributed to the Malathion spraying now. We have no proof of that, so there are knee jerk reactions happening on both sides, so let's recognize that, okay.

Number two, you say no spraying, no Malathion, and I kind of agree with you at this point after last year's scare and dealing with the spraying and the chemicals and the pesticides, it's something that maybe we should definitely get away from. But you also say no mosquito ditching as well. You've made all valid, good points, but what I didn't hear are what you feel are the proper alternatives. Now, when you're dealing with human lives in Suffolk County, we as public officials have a responsibility to protect, number one, human life and worry about everything else later, especially when it comes to an epidemic, an emergency situation. And I think --

MS. MAKINAJIAN:

Has anybody gotten sick in Suffolk County?

LEG. CARACAPPA:

Thankfully, I don't think so. Yeah, I think maybe we're losing horses and who knows what the next year brings. Now, before you jump ahead and say what's going to happen, has anything happened, you mentioned your niece. Now, what happens for any person who's child, God forbid in the upcoming year, gets sick from the disease and everyone's going to -- wait -- everyone's going to come back screaming at us, "Why didn't you do something?" Now, you sit here before us saying don't do anything, but there's no alternative plan.

So I'm not chastising you for saying don't do anything and not giving us a plan, but what I would like to hear is what your recommendations are to us so that we can do this in a safer fashion so that everyone can live with this, both human and the ecology and species other than human throughout the County of Suffolk and beyond. So I'd like to hear some give and take on what you think is good.

MS. O'KANE:

The most feasible plan that we think could be effective and provide a very good level of safety is to continue the monitoring and the surveillance program that already exists in Suffolk County; from what I understand, there is a very, very good program. Once again, also using larvicides, we understand that that is the least toxic method of trying to control the mosquito larva. And we are allowing, we are saying that if those methods are limited, if they don't seem to be working, then targeted, controlled spraying is something that needs to be considered. But we are definitely against -- we would like to see a ban on all aerial spraying, it's just not effective, it doesn't work. And if we can control whatever treatment we need to be applying, then that's the best recourse.

LEG. CARACCILOLO:

Madam Chair?

LEG. CARACAPPA:

If all of your groups within the coalition feel that we've reached an epidemic proportion, and I know you need a definition for that and what an emergency is, I'm sure at that point in time you wouldn't be objecting to possibly taking some harsh measures to save lives. That's my point.

MS. HAMLIN:

I just want to say that the coalition is made up of a lot of different groups and with some different viewpoints, but we agree on certain basic points, so there may be some variation in what you hear from the different groups.

CHAIRPERSON FIELDS:

Legislator Caracciolo.

LEG. CARACCILOLO:

Thank you. The question I have is anyone at today's dais, have you had an opportunity to meet with our Health Department officials to discuss any of these issues, including the New York State Department Response Plan?

MS. O'KANE:

No, we haven't, but we would welcome that.

LEG. CARACCILOLO:

Okay, I think that's really the first step. The committee is here to assist the public when they feel they really are perhaps not getting the attention an issue like this deserves with County officials. The Health Department, like all County departments, falls within the purview of Legislative oversight. So as first step, I would strongly recommend that the concerns you raise today be put in writing, forwarded to the Commissioner of Health -- if you like you can copy each of us in the Legislature or on this committee or the Chair, whichever -- and it's our responsibility then to address those issues, follow up and provide the necessary oversight with regard to the issues that you're raising. Because they're important issues and I think we're all in agreement that we want to proceed in a basis as we go into this year's mosquito infestation problem with a sound plan and a plan that is addressed both from an environmental standpoint as well as public health protection perspective. Thank you.

MS. MAKINAJIAN

I understand -- oh, go ahead.

MR. McALLISTER:

I'm sorry. Mr. Caracappa, I would like to apologize, I certainly am not trying to be disrespect with my comment. I know you have responsibility --

LEG. CARACAPPA:

You weren't, you weren't disrespectful.

MR. McALLISTER:

I know you have a responsibility for obviously human health concerns. My focus shifts a bit to the, you know, overall ecology, and we would obviously have to kind of reconcile things and balance it. The point I wanted to make, my sentiment about wholesale ditching, I do disagree with that practice and I think it should be ceased. The coalition may not share that sentiment, so with respect to that one item I'm speaking on my own.

You asked about recommendations, and this is kind of troubling, at minimum, if this practice is deemed appropriate with the ditching, there is a strategy called OMWM, Open Marsh Water Management, whereby we actually plug the ends of the

ditches so the water isn't freely conveyed at a rapid pace; that to me has taken a back seat to the overall strategy of ditching. Speaking with County officials, Mr. Ninnivaggi, he indicated that perhaps there's only a few individuals in the County that have the technical knowledge to implement that strategy, I think that has to be stepped up. You know, as we go in, whether we're creating new ditches or maintaining old ditches, recutting them, there has to be implementation OMWM at the same time. You know, it's proven that we are conveying waters, we are conveying pollutants more readily, so this is one mechanism to control that and stem the tide if you will. Thank you.

LEG. CARACAPPA:

Just so everyone knows, I wasn't trying to be combative in my points. What I was trying to do, and I said this, you may not like it, but start a healthy debate on give and take of ideas. And you mentioned the key word and that's balance, we have to have a balance in this and not have it lopsided either way in case we have to deal with an epidemic or sickness within Suffolk County, we have to be prepared and ready to go in that regard. And if we don't have to and we can go completely the other way and not use pesticides, not use aerial spraying, the more the better.

MR. McALLISTER:

I do not misconstrue, I guess, your comment. I am just passionate about my position, I suppose, and in doing that, maybe that passion came forth.

MS. HAMLIN:

I have additional comment I would like to -- or question that I would like to ask. Has the mosquito, the Culex Pippin that's responsible for the West Nile Virus been found near these areas that are being considered for ditching?

LEG. FOLEY:

We will ask that.

MS. HAMLIN:

That's one question. The other thing I know that I personally want to do is acknowledge that last year we did have a scary situation, there were a lot of unknowns. We didn't know how dangerous this problem was, you know, before we found out that it was West Nile Virus. So I personally am not faulting anything that was done in the past, I am just concerned what happens in the future.

And I guess my point with the pesticides, I think many of us feel that we would like to see no pesticides at all, but that if we do see pesticides that we want it to be based on science not fear, with specific conditionings -- specific conditions occurring before any spraying is done, but we would rather see no spraying at all. And the point is that, you know, I see human health as well as environmental health as crucial issues both, and the point is that the damage that the pesticides may do to the humans as well as to the environment, what it may do to the humans may be worse than West Nile Virus. Especially since the EPA, you know, is looking at Malathion as a known carcinogen and since Deet is not child safe and since Pyrethroids cause all these problems and these are known, that we seriously have to look at the effects of these pesticides because they may be worse, far worse to humans than the West Nile Virus in the end. And I'm not saying I know the answers, but given these dangers that we do know, that's scary to me.

LEG. CARACAPPA:

Agreed.

CHAIRPERSON FIELDS:

Legislator Foley.

LEG. FOLEY:

Thank you, Madam Chair. Kevin, I want to take you up on some of your passion here this morning because it's well placed and it's something that we intended to speak with the Health Department about, about the need to move more aggressively

into the realm of open marsh management. We had a presentation two years ago by the Department of Interior on this approach, I know Chair Fields who has a background with Ducks Unlimited and others, I know they're ready, willing and able to be part of this approach. And I just wanted to share with you my full agreement with the fact that we need to come up with alternative methods to -- and open marsh management as one of those methods. None of us like to see the use of chemicals. We are going to hear from the Chair, rather from the Commissioner about this balanced approach as to whether or not the use of these chemicals outweighs the problems associated with West Nile, but certainly the open marsh management is a very promising approach. And I fully agree with you that the Department of Public Works, as well as with the Health Department, need to more aggressively and viciously employ that strategy and move away from some of these other past practices. So we'll keep you abreast of that as well.

MR. McALLISTER:

Thank you.

LEG. FOLEY:

Thanks, Madam Chair.

CHAIRPERSON FIELDS:

I just want to add that the program that we're talking about for open marsh -- the restoration is called the Long Island Initiative and Suffolk County Vector control is one of the partners out of the four partners; it's Ducks Unlimited, Suffolk County Vector Control, New York State DEC and U.S. Fish and Wildlife. And as we speak, they're doing some restoration work over at William Floyd and they have two other projects that are to be completed before their window is over. This was something that I have great passion for and I agree with you that the ditching should stop, or I believe the ditching has stopped, I will ask Dominick about that, but that we should plug those up and have natural ponds formed and a natural habitat for fish to eat mosquitoes and for wetlands to function in their normal capacity. But I will ask Dominick about that when he approaches. Do you have any other comments?

MS. HAMLIN:

One other comment. Legislator Caracappa mentioned about what were these other preventive things, one other thing that I don't think came up today. One of the most important issues is educating people to keep standing waters out of their yards, because if each person in their own home makes sure that their yards and the yards of their most immediate neighbors are free of standing water, there is a major, major prevention strategy right there, since these mosquitoes don't go too far from their home base.

LEG. CARACAPPA:

Absolutely.

CHAIRPERSON FIELDS:

I think when we have the Commissioner up, you'll hear some of that information too. Anything else?

MR. McALLISTER:

Thank you for being sensitive to our concerns.

LEG. CARACAPPA:

Thank you very much.

CHAIRPERSON FIELDS:

Thank you. Thank you for coming, taking the time out. Commissioner Bradley and Dominick, could you come up? Good morning.

COMMISSIONER BRADLEY:

Good morning.

CHAIRPERSON FIELDS:

I tried to write some of the questions down.

COMMISSIONER BRADLEY:

Yeah, so did I.

CHAIRPERSON FIELDS:

Good.

COMMISSIONER BRADLEY:

And there are some things -- if I could start by just saying a few things.

CHAIRPERSON FIELDS:

Great. Thanks.

COMMISSIONER BRADLEY:

These are not in any particular order, just in terms of where I wrote them down on a piece of paper in front of me. In terms of bird testing, we did not test every bird; and Elsa, if you were told that it didn't matter, that's not appropriate. The State DEC would not test all of our birds. At first they told us they would only test two per town and we told them that was impossible, you could not put those restrictions on us, so we had the ability to test more, we didn't test all of them. If you were told what you were told, and I don't doubt that, that was not appropriate. But we did not test every bird, there were some we did not test only because of the constraints of the health department.

In terms of the Deet distribution there were two formulations, there was an adult and a pediatric and my understanding is they were given out at the health centers and hospitals. Again, if a child was offered an adult formulation that was not appropriate, and if you could give me the information I would like to follow up on it because Deet has its own complications as well as everything and we said that through the whole thing. This was for families, if they wanted that extra protection it was offered by the State Health Department.

We are working with Dr. Tangretti in terms of birds and we've worked on a way to get out to bird fanciers, we're going to be subcontracting with Dr. Tangretti for some work having to do with West Nile, so we welcome that opportunity. Possibly there is a committee that's going to be formed as a part of Legislator Bishop's bill with the phase-out of pesticides and it's a community oversight committee, and I know that that would be a mechanism to interact between the public and the health department and public works in terms of pesticide issues, so we do welcome that.

At the end of the West Nile outbreak last year, we met with Elsa and several other environmental groups, the Audobon Society, the Citizens Campaign for the Environment and some others. And we talked to them about what happened and at the end of the meeting we said that there would be continual dialogue. Adrienne Esposito from Citizen's Campaign for the Environment approached me a couple of weeks ago that she wanted to meet with us once the state's plan came out and I said fine, you know, please let's do that. So I welcome that, we would like to hear what people have to say.

In terms of what is the trigger for spraying. Last year in Suffolk County the trigger for spraying was when we had birds with West Nile Virus that were dying from West Nile and we had mosquitoes who were positive for West Nile. It was not a concern that there were deaths in the city or that there was illness in Nassau County, it was the potential for disease in Suffolk County and that was based on -- originally it was birds and mosquitoes, towards the end we found out about the horses but that was after the mosquito season was over, so there was no control having to do with the horses that died from West Nile.

I mean, in terms of what's an epidemic, it's an increase in incidents of a disease in a community. And it is true, we had no deaths and no known cases from West Nile, but the whole basis of public health and prevention is to prevent that. We had the circumstances in place to have transmission. We had --

CHAIRPERSON FIELDS:

Can you just go over what constitutes an epidemic, an increase in what?

COMMISSIONER BRADLEY:

Increase incidents of a disease in a community. So considering there had never been West Nile before, there was an epidemic in the city, anywhere you would have it would be an increase because it had never been here before, Suffolk County had no cases. But the whole point of what we do is to prevent cases. We do, or Dominick does prevention and we get involved only when there is a concern of a spread of a communicable disease and that's when we have virus in a community, whether that's Malaria, whether that's Eastern Equine Encephalitis and in this circumstance it was West Nile Virus. I don't know if you wanted to -- some of the things that were brought up.

MR. NINNIVAGGI:

Well, one of the things I wanted to mention, you mentioned Adrienne Esposito; she was, in fact, a participant in the working groups that met to develop the prevention response and control plan for the State, I was a member of that work group and she was actually there --

CHAIRPERSON FIELDS:

Can I just interrupt?

MR. NINNIVAGGI:

-- as we put this together.

CHAIRPERSON FIELDS:

May I interrupt? I met with her two days ago and she has a lot of comments about the plan, she's not in total agreement to it. So she did meet with it or with you all and had some participation and is not satisfied with those results.

MR. NINNIVAGGI:

Well, I don't know whether she's satisfied or not, but she certainly had ample opportunity for input. I think that all of us, when we work together with other agencies, the final product might not be a hundred percent in agreement with our viewpoint, but that's to be expected. I think that the point is that they were, environmental groups were included in the planning process.

LEG. CARACCILO:

Along those lines, could you just outline for us what are we talking about here when we talk about the New York State Health Department's Response Plan and what roll do we as a County Government, or other municipalities, have with respect to putting that plan in place? And are we ultimately just a player and an agency that provides input, much like the environmental organizations? We don't control, do we, the outcome, that's left to the state officials?

MR. NINNIVAGGI:

Well, the plan that was put into place involved a large number of individuals from the various health departments, environmental agencies, mosquito control agencies such as myself and in Nassau County, our Entomologist, Dr. Scott Campbell, we're all involved in putting together the plan. The plan is ultimately a State Health Department entity. One reason why I wanted to participate in the development of the plan is in order to be able to make sure that it was consistent with the sort of things we do, and also I'm cognizant of the fact that we are the largest mosquito control program in New York State and probably northeast and our input was very much sought out in the development of the plan.

LEG. CARACCILO:

Well, in that respect, what expertise do you bring to the table? Because we hear the term of art a lot, let's base our actions on science and not fear; are we basing our action plan on science?

MR. NINNIVAGGI:

I think we can very safely say that. We have a substantial surveillance program already for mosquitoes, populations, both as adults and larvae and also for disease. In this coming year we'll be upgrading that capability significantly. The Health Department has added three positions to the laboratory program and a Capital Project of over \$160,000, so we will be upgrading our efforts substantially on this. And it's important -- we have always had -- for many years we have had an ongoing surveillance program for Eastern Equine Encephalitis which is a more virulent, viral encephaloid than West Nile Virus. So we can't ignore the problem of Eastern Encephalitis, so we have to add to our existing surveillance program and that's why we needed more resources. But certainly as a County program, we're far ahead of any other municipality in New York State and up and down the east coast. If you look at mosquito control programs, I say we compare very favorably, not only in terms of the scientific effort we put in but in terms of our environmental compliance and protection.

LEG. CARACCILOLO:

Okay. Now, West Nile is a particular disease that is not common, has not been common in this hemisphere prior to last year, is that correct?

COMMISSIONER BRADLEY:

As far as we know.

LEG. CARACCILOLO:

As far as we know.

COMMISSIONER BRADLEY:

Right.

LEG. CARACCILOLO:

It is prevalent in Africa?

COMMISSIONER BRADLEY:

Yes.

LEG. CARACCILOLO:

Okay. How do they deal with it, do they attempt to deal with it; what measures do they use?

COMMISSIONER BRADLEY:

Well, I think if we talked about now how do they deal with it, they have resistance among their birds. This was the first time that the virus had hit our population, we can start with the birds because that's how we first knew that it was here. And ninety some percent of the crows that were infected with West Nile died from West Nile. The they -- the species has not had a chance to develop resistance to the virus, in these other countries and continents they have so that it doesn't cause the major impact that it did here. Same with humans; humans will develop some type of resistance if it's at a certain level in a community. We have never seen it before, most people here have never been exposed to it before. So those who were susceptible, the elderly in this case, were the ones that did have the mortality associated with it.

MR. NINNIVAGGI:

I think we should also point out that in many of the countries where West Nile Virus is endemic as in Africa, they have extremely serious Malaria problems. So their mosquito-borne disease that they're most concerned about tends to be Malaria which is one of the leading killer of people among infection disease, you know, to this day. So in some ways they are so concerned about Malaria that West Nile Virus doesn't raise as big an issue there, we're fortunate not having that problem.

LEG. CARACCILOLO:

In terms of being prepared as best as one can be prepared for the return of this mosquito season, and that's far away now, is it?

COMMISSIONER BRADLEY:

No.

LEG. CARACCILO:

As soon as the weather -- as soon as we get out of the frost season, mosquitoes will again breed; is that correct?

COMMISSIONER BRADLEY:

Yes. And if you look at what our past experiences are, usually we have mosquitoes -- starting in spring we could have mosquitoes. We usually don't identify virus within mosquitoes until late into the summer, but we don't know what's going to happen with West Nile and that could always change. And that's why our surveillance program has been increased in mosquitoes as well as in birds, and also in horses which is done by the State Health Department.

LEG. CARACCILO:

Okay. We heard Elsa Ford mention Orange County, California, and their early detection surveillance measures; are you familiar with that, is that something we should consider and incorporate here?

COMMISSIONER BRADLEY:

I'm not familiar with it, I don't know if Dominick is.

MR. NINNIVAGGI:

Well, that's a St. Louis Encephalitis Program, from my understanding, which is a slightly similar but somewhat different disease. And I know that many of the people, researchers who are working on this are looking to see if those are appropriate surveillance programs for West Nile Virus.

I think we should all keep in mind that up until September of 1999, nobody had seen West Nile Virus in North America. So there is a tremendous amount of scientific research going on right now and that will continue probably for sometime to really understand the ecology of this virus in our system. And in some ways you can't design the surveillance program, and even the control program in some ways, until you really understand the ecology of that virus. And that does not happen overnight, that process will probably take years to truly understand the ecology, and I don't think that we should expect simple over night solutions with that.

LEG. CARACCILO:

We heard comments about methods and means by which to attack this problem; would you like to share your comments about aerial spraying as well as the ingredients or the measures that will be used this year?

COMMISSIONER BRADLEY:

Well, I'm hopeful that we won't need to do any type of adult control; I mean, let me start out by saying that. The reason why aerial spraying was chosen in Suffolk County was because of the extent of the virus in the Town of Huntington. And in discussing it with Dominick who runs Vector Control, it was unfeasible to do it with truck spraying. We --

LEG. CARACCILO:

Could you just elaborate, Doctor, on that, why?

COMMISSIONER BRADLEY:

We mapped the dead birds in the Huntington Town, the hundreds of dead birds, and it was physically impossible to try with a truck to go and target those areas, because you need to consider how far the birds travel, you need to consider the mosquitoes that could have bitten those birds, how far they travel.

LEG. CARACCILO:

Okay, I want to interject here because I think it's important for all of us to understand what is the risk versus reward if we go ahead and, rather than aerial spray, we use some other means like truck spraying; what's the risk reward and what's the danger to human health?

COMMISSIONER BRADLEY:

Well, I'll start and then I'm going to ask Dominick to pitch in. When you do aerial spraying versus truck, and they both have different indications for us, aerial spraying is a more evenly distributed spray, when you do truck spraying -- he really should speak on this -- it's a fogger. So if you are close to where the truck is, your dose of pesticide is going to be greater than, let's say, if it's aerial spraying. And I don't think that one is the worst and one is the best, I mean, they both have pros and cons associated with them.

MR. NINNIVAGGI:

Yeah, just to -- those are just two different techniques for delivering pesticide to a target area, they have their pluses and minuses depending upon the situation. As Dr. Bradley mentioned, aerial application can actually have an advantage in that the spray cloud is fully disbursed before it reaches the ground, so the pesticide in many ways is more evenly applied than it would be from the ground. Ground application can be very helpful for a relatively small area, but we have to keep in mind that the truck can only go on the street and if mosquitoes are in the backyard and there's no wind to move the pesticide you're not going to kill the mosquitoes in the backyard, or let's say you have a forest, a truck can't get into the forest to kill the mosquitoes. So aerial spray has a very -- has important advantages in certain situations.

If there are particularly sensitive habitats, it might be necessary to use ground spraying close by, but for large areas, aerial application has an important place. I think that you can't really just say that intrinsically one technique has more of an impact than the other, it depends upon how it's done. And I think one of the things that people may not realize, I heard news stories of helicopters dumping pesticides; well, that is very, very far from what actually happens in a mosquito control application. Mosquito control for adult mosquitoes uses extremely minute amounts of pesticide per acre compared to any other use, in agricultural use you will be using pounds per acre of active ingredient. For Malathion we're using three ounces per acre, that's a couple of shot glasses in an entire acre, and a helicopter can apply that precisely. For materials like Scourge or Anvil, we're talking about a tenth of an ounce per acre of active ingredient; and again, a helicopter can actually evenly apply a tenth of an ounce of active ingredient over hundreds or even thousands of acres of land.

Our helicopter uses global positioning for its navigation. When we did the spray in Huntington, EPA was present as was DEC to go over the operation and to make sure we were in compliance and to look at the operation. When we made it -- I had prepared a map in advance of which areas were to be treated. Rather than just handing that map to the pilot, I went up with him in the chopper and actually went over the outline of the spray area with him and his Global Position Systems; so he actually, as we flew over the boundary, mapped that into his computer. As we went along, I would look at the spray map and I would cut out areas that we originally had on the spray map -- for instance, to give a buffer to the Cold Spring Harbor Fish Hatchery, to avoid spraying downtown areas or shopping centers -- and then that was in the computer and it was available for the pilot to use. So it's a sophisticated operation and I think we should keep that in mind.

LEG. CARACCILO:

Well, that's precisely the point. And we heard reference also to

Rockland County and that they have, apparently at the local level, decided against aerial spraying; are you familiar at all?

COMMISSIONER BRADLEY:

No.

LEG. CARACCILO:

I mean, I'm familiar with Rockland County, it's a much smaller County than Suffolk County, but demographically there are a lot of similarities, particularly with the central eastern half of Suffolk County, it's not as densely populated. But why would they have chosen to ban aerial spraying given those facts versus what means are they using and did they have the problem anywhere near to the extent Nassau/Suffolk had?

MR. NINNIVAGGI:

Well, Rockland County doesn't have anybody like me on staff. I don't know if they did, with my level of training and

experience, I don't know, maybe they would have made a different decision. I can't speak for why Rockland County would make a decision, but I can tell you from my experience and the experience of my predecessors here in Suffolk County what we can count on to work here.

LEG. CARACCILO:

Final question, Madam Chair, and I appreciate your indulgence, but this is an important topic and I know you're very much engaged in it on a daily basis, not just on a biweekly committee basis. And that is given what we experienced last year, given what one could expect to happen this year, did we have any known cases of ill effects from any of the spraying programs you have implemented? And in the absence of either aerial spraying or truck spraying, what measures outside of the precautions, and there was good advice given that homeowners should clear all free-standing water and so forth, but not everyone does that. You have a lot of commercial/industrial places that have flat roofs where you have a lot of standing water, as well as behind these facilities that aren't properly monitored or maintained. So in the absence of taking the precautionary measures to the best extent humanly possible, if you don't spray by truck or by air, how do you combat this problem?

COMMISSIONER BRADLEY:

Well, the problem is really multiple problems. Right now, as Dominick said, we don't know the whole story with West Nile. Right now we believe that the majority of the transmission that occurred last year occurred via a Culex Mosquito, and that's pretty much definite, it has followed that pattern in other countries.

LEG. CARACCILO:

I'm sorry, I didn't understand what you just said.

COMMISSIONER BRADLEY:

The Culex, it's a household type mosquito. But there are other mosquitoes that are suspicious for also being able to transmit West Nile and they're not household mosquitoes, they're more swamp mosquitoes and out in other areas. So right now we're dealing with what we know is definite and that's Culex and that's the education that we've started to individual homeowners, mainly working through the towns. So that's the basis for that. That may change as time goes forward. If we find that West Nile is spread by the same mosquito that spreads Eastern Equine Encephalitis or other types of viruses, we may have to change it, but right now it's really directed at homeowners.

Mosquitoes carry virus. There are over 40 species in Suffolk County, about 20 of them are capable of transmitting virus, so we're not only talking about West Nile. And there are other reasons besides West Nile to do mosquito prevention in terms of water management, in terms of larvacide.

LEG. CARACCILO:

But my question was once you take all the precautions and you need to respond because there is a pest problem, or worse an epidemic or an emergency, what then are the appropriate ways to respond?

COMMISSIONER BRADLEY:

Okay. Well, one is personal protection. We tell people there is virus us in a community. Whenever we have that, whether it's Malaria, Eastern Equine, West Nile, whatever it is we put out press releases. We communicate with elected officials because they're a major conduit for information in their communities. Stay inside, stay inside at dusk and dawn, those are the times when mosquitoes are out the most and those are the times when mosquitoes bite. There are certain -- if you have to go out, there is certain clothing that we advise, don't go out with a T-shirt and a pair of shorts into a mosquito-infested area if there's Eastern Equine in your community. There are insecticides that -- Deet; if people want to do that, they could do that. And then our last control, if there's significant virus in a community, from a public health perspective we will do adult control. And if it's targeted -- if it's a very small area it will be with truck control, but if we have significant virus, we may have to consider doing aerial spraying.

LEG. CARACCILO:

So if there is a repeat of the Huntington type of outbreak, then you wouldn't hesitate to use aerial spraying.

COMMISSIONER BRADLEY:

We'll have to consider it.

LEG. CARACCILO:

Thank you.

MR. NINNIVAGGI:

We would hesitate --

COMMISSIONER BRADLEY:

Yes.

MR. NINNIVAGGI:

-- but we would consider it.

CHAIRPERSON FIELDS:

It's my understanding that you have a plan that you are supposed to put together and present to the Legislature each year for approval. And Counsel can correct me on this, but it's my understanding that that plan has not been presented to the Legislature since 1993 for approval?

MR. NINNIVAGGI:

I know I prepared them and I thought that I sent them along the proper channels. I'm not sure where they are, I know certainly the 1999 one was because I believe even Legislator Foley had a copy of that. I can't speak as to the mechanics of transmitting them to the Legislature, but I can tell you I certainly prepared them. I have a near final draft of the 2000 Plan of work here, I have Dr. Bradley's revisions in it. As Commissioner Bartha wrote back to you, we will have the 2000 Plan ready by the end of the week to submit to the Legislature.

CHAIRPERSON FIELDS:

So can we expect that the whole Legislature will have that plan at the next meeting?

MR. NINNIVAGGI:

We will certainly -- it will be transmitted through whatever the normal channels are to get a copy to the Legislature, and certainly it can be distributed to all the individual Legislators also.

CHAIRPERSON FIELDS:

What would the normal channels be?

MR. NINNIVAGGI:

You're getting into some of the administrative details of when they get out of my office --

LEG. FOLEY:

Where do you send them?

MR. NINNIVAGGI:

I send it to my Commissioner's Office and I believe it goes to the Clerk of the Legislature.

CHAIRPERSON FIELDS:

Paul, can you tell us what the proper channels should be so that we could know what to expect?

MR. SABATINO:

Statutorily in the administrative code, the County Charter rather, the way it's set up is it's a two step process, by October

1st of each year the plan has to be submitted to the Legislature, the normal channel is it goes from the Commissioner to the County Executive and the County Executive files with the Legislature. And then part two is that the Executive submits a resolution in order for the plan to be adopted no later than December 31st of the year before the year the plan is to go into effect. Someplace along the way it seems to have fallen off track, because we checked the computers and I think '93 was the last one we were able to find. So it's a two step process, the plan has to be sent over first by October 1st, then the Executive has to send over the resolution shortly thereafter to make sure it gets approved no later than December 31st.

LEG. CARACCILO:

Legislator Fields, this gives rise to really a larger issue in County Government, and that is the failure of some entity in the Legislature to monitor -- could everyone check their mikes to make sure they're off, because we're getting the feedback; I'll just switch mikes.

As I was saying, it leads to the failure in the Legislature of follow up and oversight. This is an important report, it is now some five mosquitoes over due. I think given the circumstances of what happened last year, maybe there's a reasonable explanation for that because as we speak you're putting final touches on it. But given that exception, I mean, for five years no one in the Legislature was aware that this plan was to be filed or received and reviewed? What kind of mechanisms can we put in place internally to make sure this doesn't happen again but all the other statutory requirements that are in the Administrative Code and so forth of County Government are followed up on?

LEG. FOLEY:

To answer that question, if I may, Madam Chair. It's an excellent point and I think the simplest and most direct answer is for the different departments to follow the laws of the County. If the laws --

LEG. CARACCILO:

When they fail to, Brian, what do we do?

LEG. FOLEY:

Well, what we do is what's being done today, to the credit of the Chair that she's bringing this to our attention and the fact that the departments have to follow up on the laws of the County. I find it equally distressing, it's not five, I think it's seven years, right, '93, so it's seven years that there hasn't been a formally approved plan submitted to this Legislature.

LEG. CRECCA:

Madam Chair, if I may. Paul, for Counsel, Mr. Sabatino, couldn't we have -- wouldn't it be or couldn't it be a responsibility of our Clerk's Office to make sure that there's compliance with these things? I would think that it's part of the function of the Legislative Clerk to do that.

MR. SABATINO:

Well, in fairness to the Clerk, the Clerk's Office is really just a distribution office which is that documents that are filed they distribute, they don't really have a responsibility to, you know, affirmatively go to departments -- I mean, it's like the budgetary process. I mean, for two or three years in a row we didn't get the requisite impact statements when the budget came over. For a couple -- three years in a row we didn't get the appropriation resolution for the County Budget that was submitted, fiscal impact statements sometimes. There's a lot of things that happen during that process, really the oversight function of the committees is what uncovers it over a period of time. You can't litigate every point of the code and the Charter, but generally what happens is that when these things are uncovered, the oversight function leads to it getting back on track and that's how you get the information. I think really in a case like this, with the information being brought to everybody's attention and it being explained, it will probably work again the way it did prior to '93.

LEG. CRECCA:

Thank you. I just have a question on lobsters, not to change the topic, but I'll wait on that for now until we're done with vector control.

MR. NINNIVAGGI:

Well, I just have a couple of things -- there were a couple of, I think, misunderstandings that some of the folks brought up that I wanted to just bring to your attention.

One of them was the use of predators such as birds and bats to control adult mosquitoes; that unfortunately falls something into the realm of myth. It's not true that bats or birds eat enough mosquitoes to make a significant difference in mosquito populations. You know, this is information that got out based on some calculations of how many bugs they could eat, but in reality that doesn't happen.

We also had some people bringing up points about our wetlands water management work. And one thing I would point out is that prior to getting this job I was Title Wetlands Manager with the State DEC, so I have been working in this wetlands water management work for approximately 14 years now. There are only a couple of people in Suffolk County who are qualified to design these open marsh water management restoration projects; I happen to be one, my biologist, Tom Iwanejko happens to be another, and there are maybe two or three other people in the County. So this is one reason why we can't necessarily do open marsh water management in every marsh.

CHAIRPERSON FIELDS:

Can I just interject?

MR. NINNIVAGGI:

Yeah.

CHAIRPERSON FIELDS:

There are other, you know, with the four partners, that can do that. And I think, you know, I would like to see more intervention, you know, and more cooperation with --

MR. NINNIVAGGI:

Oh yeah, absolutely.

CHAIRPERSON FIELDS:

I know that you don't have enough meetings with the Long Island Initiative and it's not -- you are not involved, not you personally but the department, all of the four partners don't meet often enough, and I think that should be something that should be put on the front

burner, so that that has kind of a, you know -- should come as a priority.

MR. NINNIVAGGI:

Well, we meet approximately monthly to bimonthly, and we do work together very closely. I think that, for instance, the William Floyd Estate Project that's going on now, 200 acres in Mastic; I actually sat down with my biologist and drew up the design for the Federal lands and then it was sent to the Federal people. So we are heavily involved in this and we would like to do more of it. However, there are other ditch systems that remain out there, and until we can get to them for open marsh water management, when it's appropriate, and it might not be appropriate everywhere, it's important to maintain them. Because if you allow those ditches to stagnate, you can actually have more mosquito breeding than you start with. I think that it's -- we certainly are headed in the right direction, I think all of us would like to get there faster. But I think that for now we do need to proceed on two track until we can ultimately restore -- we're talking about restoring all of the salt marshes in all of Suffolk County, so it's a large job.

CHAIRPERSON FIELDS:

I just want to ask a question. The ladies and gentlemen who were here this morning and asked some questions, I want to just get back to some of those.

One of the questions that came up was how we can inform the public on the safety of pesticides. And it's a point, it's a good point that we're telling them about West Nile and we're not telling them about Malathion and I'm not sure I agree

with the County on the safety of Malathion, I am finding out more and more information and I have spoken to Basil Tangretti, too, who doesn't agree with the fact that Malathion is used. And so I wonder if you have some plan to inform people, not only about the disease but also about the cure.

COMMISSIONER BRADLEY:

During the 1999 episode, the pesticides that were used, including fact sheets about them, were on the County's web page, so where they want to look for information about spraying also included information about the individual pesticides that were used for adult control. That was -- that's probably the best way to get information out to individual people. We could also do it through towns, because we can't get to all 1.4 million people, unfortunately, so the computer is a good way, using towns is a good way. I mean, if there's another way that we can come up with, we would be happy to pursue it.

CHAIRPERSON FIELDS:

Will you be having this information readily available to schools before June?

COMMISSIONER BRADLEY:

In terms of if we --

CHAIRPERSON FIELDS:

Public education.

COMMISSIONER BRADLEY:

Yes. There are two public educators now that are available to do education. You mean to go on site and do public education or just the information, getting that out?

CHAIRPERSON FIELDS:

Getting it out. I think, you know, if I were a parent and my child was in school and I was at work and didn't have access to the web page, I'd want to know what the plan was for spraying, what they were using and the adverse affects, you know, the EPA findings on Malathion, I would like all that information to be available so that I'm an educated --

COMMISSIONER BRADLEY:

Would you want it now saying that these are the things that Suffolk County may use or would you rather wait until we think we're going to use them and then send it out?

CHAIRPERSON FIELDS:

That's what I'm asking, when will that be available, will it be available before June?

COMMISSIONER BRADLEY:

Well, Dominick has the list of chemicals that he uses for mosquito control, so that's available now, that hasn't changed for many years; I mean, that could be published. They don't change when there's an outbreak. And then these are chemicals that are approved by DEC and EPA.

CHAIRPERSON FIELDS:

Can I ask Dominick one question about larvacides? Last time you were here you were saying that you were not using larvacides or you're waiting for permits? I think Brian came up with --

LEG. FOLEY:

Yeah, with the pellets.

MR. NINNIVAGGI:

Well, we are -- we use variety of variety of larvacides, that's most of what we do. We had been waiting for word from the DEC, there are time release products that use an insect growth regulator, the altersite Pellets and briquettes. The Federal EPA has removed a restriction that used to be on the label regarding fish habitat, because the EPA came to understand that these products are not a threat to fish, and in the 49 other states in this country that restriction is off the label. The State of

New York has continued to place that restriction on the label. I had been in contact with them earlier this year and they had given me some indication that that might change, but now I understand that that will not change.

It creates a problem because these are materials you might want to put, for instance, in a catch basin where these Culex Mosquitoes breed, and some catch basins are connected to pipes that might end up in some sort of stream or pond. So is that, in fact, fish habitat? So we would be very limited in how we can use these products, and we feel that they would be a very helpful thing for us to have.

LEG. FOLEY:

Just as a follow up to that, if I may. And as I said the last time, this is a three year conversation now as far as these pellets in catch basins and the State not giving the County approval. If there is no piping in these catch basins that's going to any fish area, if it's just a basin, would the State give you a permit for that?

MR. NINNIVAGGI:

Apparently they will.

LEG. FOLEY:

All right, stop there for a moment. If that's the case, I'm sure whether -- and Joe knows them very well, as I do -- whether it's -- I'll say in my area, whether it's the Town of Brookhaven Highway Department for the south shore, they can show you exactly -- I can tell you where I am a hundred catch basins that have no pipes anywhere, they're just in the ground --

LEG. CARACAPPA:

Vaults.

LEG. FOLEY:

Vaults as they're called, okay? I can tell you the County Roads in my district where there is piping and where there is not piping. So if the State -- you can get approval from the State for those catch basins that don't have any piping leading to a spawning ground, if you will, I mean we should get on top of that right away.

MR. NINNIVAGGI:

Oh yeah, we will be asking for the permits.

LEG. FOLEY:

Whoa, okay.

MR. NINNIVAGGI:

However, we may have a problem there.

LEG. FOLEY:

I don't mean to be argumentative but, you see, we will be asking for the permits. Shouldn't we have had approval by -- shouldn't the applications have been put in well before now so that you can do this work in the spring as opposed to waiting to however long it's going to take for them to respond to the as yet non submitted application?

MR. NINNIVAGGI:

Well, to their credit, their turnaround has been very good. We also have some existing permits in place to use for a variety of products. So the lack of permits is not going to be a problem and, in fact, these materials are more appropriate to use, you know, May/June, so that's not an issue. However --

LEG. FOLEY:

So when will -- I'm sorry.

MR. NINNIVAGGI:

However, there is one thing about -- because New York stands alone on this, it's not clear that the manufacturer is going to be willing to market a whole separate batch of product with a label only for New York. Manufacturers, it costs them money to register products and to put different labels on them, all those things, so it's not clear to me that we're going to -- that because New York being alone on this, the product might not be available to us. That's something I plan to pursue with the manufacturers next week at the American Mosquito Control Association.

LEG. FOLEY:

Well, I'm certain, although I'm not in the private sector, that if there is a market the size of New York, that they are going to slap on a different label on a product in order to sell it here. So I don't see that as being a great regulatory hurdle. But how could -- could we have this one approach of many-- and yes, you're the professional in this area and I can recall from years ago your pamphlets about the mosquito coast, as you called it way back when, that you had written for the DEC. But can this one approach of using these pellets in catch basins that are solely in the ground at that particular location, can you tell us with some confidence that those pellets will be available this year or not?

MR. NINNIVAGGI:

Well, we have the pellets in stock in the warehouse now, so.

LEG. FOLEY:

Okay.

MR. NINNIVAGGI:

We will be getting -- and I am assuming that they will give us the permits, but until we have -- until we hear back from them, I don't want to guarantee anything.

LEG. FOLEY:

From whom?

MR. NINNIVAGGI:

From the State DEC. I'm confident that we will get the pellets.

LEG. FOLEY:

Well, because if you need that -- let's try and move that as quickly as possible. And again, if you need to have the engineering offices in the systems of the catch basins, let's get that done. Because I can tell you, as one person on the south shore, I have seen at sunrise and at sunset what happens around those catch basins, so it's absolutely, vitally important that you do that.

MR. NINNIVAGGI:

Oh yeah, no, I agree.

LEG. FOLEY:

I have a couple of other questions, if I may, Madam Chair. As far as the larvacide, that's a labor intensive under taking; correct?

MR. NINNIVAGGI:

Yes.

LEG. FOLEY:

And it is one of the most effective ways of combatting this problem and it's a way of avoiding the use of spraying. With that said, we had placed a number of additional field positions in this budget, 2000 Budget. Earlier in the year the 167 Forms, those are the forms that have to be submitted to the County Executive for him to sign off on the forms before you can hire people, could you tell the committee where does that stand?

MR. NINNIVAGGI:

Okay. We have approval to hire 14 Auto Equipment Operators and I believe for the supervisory positions also, so they're all working their way through the Civil Service System very expeditiously. The posting for the Auto Equipment Operator positions goes out to all County employees and closes on the 17th.

LEG. FOLEY:

Okay.

MR. NINNIVAGGI:

We have a training course planned for the first week in April to train new people. So we are moving along as fast as County bureaucracy can allow you to move along on these things, and I'm optimistic that we will have additional people. Again, you can check back to us in April and we can see how many people we can get on board, how quickly and get them trained.

LEG. FOLEY:

Now, the 14 -- of the 14, how many would be out in the field doing larvacide?

MR. NINNIVAGGI:

Well, those 14 are all for being out in the field doing larvacide, plus the supervisor and --

LEG. FOLEY:

Now, those are new positions.

MR. NINNIVAGGI:

Yeah.

LEG. FOLEY:

What about positions that are vacant due to retirements, are there any out in the field-- are there any field positions that are currently vacant?

MR. NINNIVAGGI:

We have -- I believe we have three vacant positions that the 167's are all --

LEG. FOLEY:

Not 167's, I'm talking about positions that are vacant due to retirements last year.

MR. NINNIVAGGI:

Well, we didn't have anybody take the retirement incentive in Vector Control, so that's not an issue.

LEG. FOLEY:

Okay.

CHAIRPERSON FIELDS:

That's great.

MR. NINNIVAGGI:

It's just such a great place to work.

LEG. FOLEY:

So with these 14 you will be able to greatly expand your larvacide program?

MR. NINNIVAGGI:

Yeah, and that's --

LEG. FOLEY:

A 10%, a 50% increase, what kind of increase are we looking at?

MR. NINNIVAGGI:

We are -- in past years we had seven larvacide field crews out.

LEG. FOLEY:

Okay.

MR. NINNIVAGGI:

Our plan is to have -- if we can get all the equipment, if we can get all the people in place, our plan is to have 14, so we plan to essentially double our ground larvaciding effort. So we are working in the right direction in terms of mosquito prevention.

CHAIRPERSON FIELDS:

Can we request that you send us a letter saying that that has indeed been completed? Because as Legislator Foley said, apparently this has been a three year process.

MR. NINNIVAGGI:

Oh, for the pellets and briquettes?

LEG. FOLEY:

Yeah, absolutely. Thank you, Madam Chair. Okay, a couple of other comments that were made by the prior speakers. Have you been able to identify the mosquitoes that carry West Nile, are they the same ones that are in the areas that you spray, or is it too early to tell?

MR. NINNIVAGGI:

Well, yes. When we sprayed we knew we had Culex Mosquitoes, for instance, in Huntington. As far as the water management that the gentleman was referring to out on the east end --

LEG. FOLEY:

Well, along wetland areas let's say.

MR. NINNIVAGGI:

In wetland areas --

LEG. FOLEY:

Title wetland areas.

MR. NINNIVAGGI:

Well, Culex Mosquitoes can breed in title wetland areas in the upper edge. And also, in the laboratory are common salt marsh mosquito, Aedes Sollicitans, has been shown to be an effective vector of West Nile Virus. So we consider our Salt Marsh Mosquitoes to be very relevant to West Nile Virus, and also the fresh water flood border species, Aedes Vexans, was detected last year carrying the virus. So the water management work that we're doing is relevant to controlling mosquitoes that have a potential to transmit West Nile Virus.

LEG. FOLEY:

Final point. As part of the education effort, I would suggest also working through the Suffolk County Library System, SCLS, in Yaphank.

COMMISSIONER BRADLEY:

That's a good point.

LEG. FOLEY:

Because that would be an excellent resource for getting the word out to the public as well. Thank you, Madam Chair.

CHAIRPERSON FIELDS:

Thank you. Just before I recognize you, did we answer all of the questions to our speakers, for our speakers?

MS. HAMLIN:

I have two other questions; can I ask two other questions?

CHAIRPERSON FIELDS:

Come on back.

MS. HAMLIN:

The first question is, so what would specifically have to happen for the Health Department to commence spraying of adulticides; what is the point at which that would be considered necessary or begin?

COMMISSIONER BRADLEY:

Well, it's going to depend on what virus we're talking about, what the mortality or adverse health outcome is associated with that virus and how much of the virus there is. And it's not -- you can't say, well, I need one bird or two birds, I think we need to look at it and see where it is, see if it's in a populated area. If I find a significant amount of Eastern Equine Encephalitis, I would be more concerned than the same amount of let's say West Nile. So those are the three main things, the virus, how virulent the virus is and where we find it.

MR. NINNIVAGGI:

Well, I can also just mention that, for instance, in 1997 we detected Eastern Equine Encephalitis at Connectquot River State Park, which has a high mortality rate. Nonetheless, we did not declare a public health threat in that particular case because it was late in the season, weather was cooling, there were relatively few vector mosquitoes in the area. We did some additional ground spraying in the park and around it, but we did not declare a public health threat. So we tried to have a measured response. We're not looking for an excuse to spray by any means. On the other hand, if there is significant virus activity and a significant risk to people, then it ratchets up the response. So it's not an automatic response, it's tailored to the situation.

COMMISSIONER BRADLEY:

The thing I forgot to say was also the vector, you know, there has to be a significant amount of vector. Just because there's virus in a crow doesn't mean it's going to be transmitted to human, it's only through the bite of a mosquito. So that's last thing.

MS. HAMLIN:

So if two crows are found to have the virus, does that mean there might be spraying again in this County?

COMMISSIONER BRADLEY:

There may be a possibility that it would be localized spraying, but it would depend on if mosquitoes were prevalent in that area and if it was the right type of mosquito that was prevalent in that area.

MS. HAMLIN:

Okay. My other question that I want to ask, it really doesn't need an answer, but isn't it ironic that we're trying to prevent, prevent a virus by using some known carcinogens, that Malathion is being considered as a known carcinogen by the U.S. EPA at this time and that its breakdown products are even far more toxic, and that some of the inert ingredients in the Pyrethroids are already known carcinogens. So isn't that ironic, to try to prevent a virus that we have no cases in this County of, with known carcinogens?

MR. NINNIVAGGI:

One thing I should mention is that I think you are referring to Piperonyl Butoxide as the inert ingredient in the

Pyrethroids?

MS. HAMLIN:

There are several that are known toxins, that are known carcinogens.

MR. NINNIVAGGI:

Because PBO is listed by EPA as a possible carcinogen.

MS. HAMLIN:

There are several known and I can get that information to you, I don't have it with me right now.

LEG. CARACCILO:

Madam Chair, I think the last statement encourages some further discussion here, because it begs the question that if we don't use the means by which we're using, what means do we use? From your perspective, we only react after some people get seriously ill or we have some fatalities. What's your perspective?

MS. HAMLIN:

I'm not an expert on the issue in terms of the disease. But it seems as though if we're doing the best job we absolutely can with educating people about keeping standing water out of their yards, with using the larvacides, with doing the other monitoring and prevention techniques that I'm hoping, hopeful that it won't get to this point where we need to use spraying.

LEG. CARACCILO:

I think we're all in agreement, but then the question becomes once you have an outbreak, do you refrain from using what we know and what both the Federal and State Governments authorize as measures to prevent further outbreak or do you do nothing? That's my question to you.

MS. HAMLIN:

I don't know the answer to that. But one thing I think that's interesting is possibly looking at West Nile Virus in the context of the morbidity and mortality as compared to other types of diseases and what we do about those, you know, how does it relate. That's a question, I don't have the answers necessarily.

LEG. CRECCA:

But that -- you know, again, we don't want to wait for that death to occur. That could be, you know, my son, my daughter, my brother, my sister, and that's what we're talking about. Nobody is talking about spraying or doing anything unless it's absolutely necessary or it's determined necessary. But at some point it will -- you know, that they may have to happen as a preventative measure. And I appreciate the information you are giving us, but that's -- and I think that the Commissioner and Dominick have made it clear that they're very, very sensitive to even having to use those.

MS. HAMLIN:

Right.

LEG. CRECCA:

And that it would be pretty much a last resort type thing, so.

MS. HAMLIN:

And I hear that and I appreciate it. And I very specifically do not want anyone to die from West Nile Virus, and I also don't want anyone to die from cancer in ten years from spraying some known carcinogens for West Nile Virus either. Because that's something that, you know, maybe it's down the road, but it's a very real possibility. And like I said before, we don't want to end up with a DDT-like situation down the road.

CHAIRPERSON FIELDS:

I think we share in those thoughts and thank you. Kevin, did you have something?

MR. McALLISTER:

Thank you. A brief question or two. Mr. Ninnivaggi indicated that, in fact, the budget would staff roughly 14 field technicians? My understanding is there is also a budgetary item for extra equipment for ditching. He indicated maintenance ditching, I ask has there been to date or are there any plans for new ditching of unaltered marshes out there. And the second phase of that question, as the chair pointed out, do we have a commitment on the part of this department that, in fact, the open marsh water management will be prioritized and implemented hand in hand with maintenance ditching?

MR. NINNIVAGGI:

Okay. Well, we -- our permits do not authorize ditching of unaltered marshes; however, there are very few of them in Suffolk County. Back in the 1930's some ten million feet of ditching was done, ditching most of the marshes in Suffolk County. We are certainly committed to open marsh water management to use whenever it's appropriate, because we realize we have a responsibility to do our job in the most environmentally sound manner possible. So you have that commitment. I can't give you a number and a year that all marshes will be open marsh water management, in some marshes it might not even be appropriate, but we are certainly committed to this. And if you look at our budgeting and our acquisition of equipment, I am in the process of finalizing two pieces of heavy equipment, specialized low ground pressure machines for this kind of work, one of them is going to cost the County approximately \$180,000, another one closer to \$190,000. So we have a tangible commitment to doing this kind of work in the most environmentally responsible manner.

CHAIRPERSON FIELDS:

Kevin, I visited Secretary of State Sandy Treadwell and George Stafford, because I found out that they stopped giving the permits to us to do the restoration work. And from that point on, U.S. Fish and Wildlife met with them also and they did then grant three permits. But as far as I know, those are the only three and probably the only three projects that they will be doing this year.

MR. McALLISTER:

Okay, thank you.

MS. FORD:

I just wanted to address the question of testing the birds for other toxins as well as the virus to see if there's a relationship between the virulents, other virus and the body burden of toxins.

MR. NINNIVAGGI:

Well, for one thing, the birds died before we sprayed. So the spraying couldn't have caused them to become sick because we sprayed after the birds had already died. I know that when they sent birds to the State lab for testing, they did check them for pesticides and other causes of death.

COMMISSIONER BRADLEY:

When they started receiving the birds, they had lots of birds and they really only wanted to -- with the birds, they didn't want to do necropsies and serology testing on birds that looked like they were a victim of trauma. So they tried to look for birds that had something like Encephalitis, and usually that goes on for a couple of weeks and you can see signs of it in terms of the birds. So that was really what their testing was targeted at, but as Dominick said, they did other testing as well.

MS. FORD:

I don't --

COMMISSIONER BRADLEY:

And it was done in Albany and in CDC.

MS. FORD:

I wasn't only thinking of the spraying as being --

COMMISSIONER BRADLEY:

There's others.

MS. FORD:

-- the only source of toxins. Because, as we know, over the years, you know, they build up quite -- there are a number of areas, ways of exposure of toxins to the birds.

COMMISSIONER BRADLEY:

Right.

MS. FORD:

But I just didn't -- in the case of the lobsters, in the case of the birds, I just didn't hear back about any results, you know, available to the public.

MR. NINNIVAGGI:

Well, I think that -- I think we should be very clear on the issue of lobsters. No responsible scientist has made any indication that pesticides were in any way involved with that. And when you think about the fact that these materials that were used were applied upland at extremely low doses and the lobsters were under a hundred feet of water in Long Island Sound, I think we can be fairly confident that whatever killed the lobsters, it wasn't the mosquito spraying. So I think that we should keep that in mind.

CHAIRPERSON FIELDS:

Okay. Thank you very much, everyone.

LEG. CRECCA:

One very quick request for Commissioner Bradley, not on this topic. I believe it was February 16th there was a meeting with the State -- wrong date?

COMMISSIONER BRADLEY:

Did you get my memo? No, that meeting never came off. So our staff is working with the Federal agencies that were going to be coming to the meeting to try to reschedule it. It never happened. Yeah, you asked me at the last meeting.

LEG. CRECCA:

I did.

COMMISSIONER BRADLEY:

I sent you a memo, you may not have gotten my memo yet.

CHAIRPERSON FIELDS:

Can you just state what meeting that was?

LEG. CRECCA:

Yeah, actually we're talking about -- it was a meeting that was supposed to take place between the State DEC, I guess?

COMMISSIONER BRADLEY:

Yes.

LEG. CRECCA:

And Suffolk County and I believe some other organizations, or just the two?

COMMISSIONER BRADLEY:

I think the EPA was coming also, but I'm not a hundred percent.

LEG. CRECCA:

And it was supposed to-- it was regarding how to address what studies were going to be done for the lobster die-off.

CHAIRPERSON FIELDS:

Okay.

COMMISSIONER BRADLEY:

Right.

LEG. CRECCA:

And what Suffolk's role would be with that and the State and all that. Would you just keep my office informed?

COMMISSIONER BRADLEY:

Yes.

LEG. CRECCA:

Because we're getting inquiries on it fairly heavily.

COMMISSIONER BRADLEY:

Yes, sure.

LEG. CRECCA:

Thanks.

COMMISSIONER BRADLEY:

Sure.

CHAIRPERSON FIELDS:

Okay, tobacco settlement money, do you have some kind of --

COMMISSIONER BRADLEY:

I have a presentation. I don't know, considering the time, if you wanted to --

CHAIRPERSON FIELDS:

No, I think we'll table that.

COMMISSIONER BRADLEY:

You want to do it another time.

CHAIRPERSON FIELDS:

Okay, thanks.

Introductory Resolutions

1146-00 (P) - Adopting Local Law No. 2000, a Local Law to require well water testing prior to acquisition of residential home (Caracappa).

LEG. CARACCILO:

I have a question. I notice in the resolution that there's a provision for a waiver. Paul, the question I have is is there any legal prohibition that will enable, let's say, a homeowner or a purchaser who may not be aware of the seriousness of purchasing a home that may have contaminated well water and somehow, as illogical as it sounds, you know, waiving their right to have the present owner remediate the problem or back out of the sale? Let's say this individual wanted to go ahead

with the sale but -- well, agrees to a waiver, I have a problem with that. I mean, it seems to me the whole purpose here is to try to have contaminated well water in private wells addressed and the County provide some type of assurance to buyers that when they buy a home that the water is clean of any contaminant. Is there some legal restriction why -- I mean, to allow somebody to grant themselves a waiver and thus permit themselves to maybe cause themselves bodily harm?

MR. SABATINO:

Well, there would be no legal prohibition to the waiver. But just by way of example, there's currently a Federal law which says that before you purchase a home the seller has to provide the opportunity for a purchaser to get what they call a lead paint inspection. Lead paint is viewed by the Federal Government as being a dangerous condition, however, parties are afforded the opportunity to waive that requirement which otherwise would postpone the signing of a contract by ten days. The theory behind the law I think, and it's being duplicated at the County level, is to bring to the attention of perspective purchasers the issue that otherwise would probably be ignored, just as lead paint was ignored for many, many years because nobody had it on their radar screen. Once the parties are aware because the statute is in place now saying there are options out there, the party is then free at that point to spend the money for the inspection to find out what the status of the condition is or to make a business judgment and say that we don't think it's a -- we believe it's an acceptable risk and then simply waive the requirement.

LEG. CARACCILO:

In terms of it being deemed an acceptable risk by the purchaser, would the County stand any liability should -- let's say you have homeowners from -- and I don't want to characterize purchasers, but we know there are some people in the community that may not have the benefit others may have with legal representation to even pick this requirement up and thus sign a contract that may not even contain this provision because simply buyer and seller are unaware that it exists. That being said, they then buy a home with contaminated well water with the -- and then perspective there's a determination that you know what, there was a Local Law and we weren't aware of it, or there was a Local Law and we approved of the waiver. I mean, does the County have any exposure here?

COMMISSIONER BRADLEY:

Could I just make one comment? In terms of the waiver, the one concern I have is that let's say the purchaser and the seller know about it but then they rent it to another party to go in there, I worry about the exposure of that party who had no idea that the water testing was contaminated. You know, the purchaser and the seller said okay, we know it, we'll waive it. It probably doesn't happen that much but it's playing devil's advocate, that's a concern that we have as well.

LEG. CARACCILO:

Okay. But just from the stand point of legal exposure to the County, I mean, this is good legislation, I am just trying to make it a little stronger if that's at all possible. I don't understand why we would want to permit a waiver, that's all. I mean, if we're concerned about the public's health, then we should go all the way.

LEG. CRECCA:

Can I address that, one of the reasons it's good for the waiver, Mike?

LEG. CARACCILO:

You are a lawyer, here you go.

LEG. CRECCA:

Yeah, that's right, you know us lawyers, we want waivers for everything. But the reality is, too, that there may be a situation too where rather than have the seller correct the situation, there may be an abatement in the purchase price and the purchaser would maybe feel more comfortable having their own people come in and fix the problem, they'll know that it's fixed better possibly than the law would require. Often what's done with termites, for example, or even if there's lead paint found. A purchaser will say, "Okay, give us \$5,000 off the purchase price. We'd rather have our own people in, since we're buying this house, correct the situation." That's just one example of how a waiver is used sometimes to protect the purchaser more and the purchaser's rights. So again, once there's the information there, we have to put some faith that people who are purchasing a home can use their common sense and know that they're not going to expose themselves to

risk. But certainly we don't want to take that right away from people to address the problem themselves or, if they choose, ignore the problem.

LEG. CARACCILOLO:

In that vein, and that's a good point, is there some we could add language to the resolution that would permit that type of application, but make it clear that under no circumstances does the

County approve or condone of homes being transferred or sold that have contaminated private well water supplies without some action taken on the part of the buyer or seller to remediate that.

MR. SABATINO:

Sure, there could be a disclaimer clause added, that's not a problem.

LEG. CARACCILOLO:

I know this is a resolution that was introduced and it's a good bill by Legislator Caracappa. I did ask months ago to the Clerk's Office to add me as a cosponsor, it's not on this copy, I would like to be a cosponsor. And I would ask the prime sponsor if he would consider just making that amendment.

LEG. CARACAPPA:

Just to put the disclaimer in.

LEG. CARACCILOLO:

Yeah.

LEG. CARACAPPA:

Absolutely.

LEG. CRECCA:

What is a disclaimer? I'm sorry.

LEG. CARACCILOLO:

Well, Counsel, maybe you could at this juncture share with us what you envision.

MR. SABATINO:

Well, the general concept would be that nothing contained herein shall be construed as condoning by the County of purchasing without the benefit of the inspection. Those would be the general idea, I'll get better words.

LEG. CRECCA:

Okay.

LEG. CARACCILOLO:

Is the Commissioner of Health satisfied with that?

COMMISSIONER BRADLEY:

Yeah, yeah.

LEG. CARACCILOLO:

Okay.

COMMISSIONER BRADLEY:

And I have an one extra comment that I thought I had relayed to the sponsor and maybe I didn't. If you look at Section 3A it says, "No purchase of a residential dwelling served by a private water system should be contaminated within the County

of Suffolk unless and until the purchaser has obtained a written certification from a New York State approved laboratory at his or her own cost and expense that such private water system is not contaminated by toxic or hazardous materials." That's a very vague sentence. What does it mean to be contaminated by, does that mean the presence at any level even though it's an acceptable level. So I think it might be better to put in language, if agreeable, that it conforms to water testing --

CHAIRPERSON FIELDS:

What if you put in unacceptable?

COMMISSIONER BRADLEY:

Well, we have -- this is a changing definition also. The State may say, "Okay, that level for that chemical, we're going to change it." So it might be better to just say the levels that are enforced currently by the Suffolk County Department of Health Services because we would know what they were, and then you wouldn't have to mention what they were in the law. I have language that I drafted.

MR. SABATINO:

Yeah. Actually, what happened was the bill got filed -- the bill got filed in anticipation of your giving us the more complete list. I mean, when it was filed I had said to Legislator Caracappa, we need -- we need what you're going to provide us with, that was the purpose of the letter.

COMMISSIONER BRADLEY:

Okay.

MR. SABATINO:

So if you give that you to us, we'll incorporate it and it will be better.

COMMISSIONER BRADLEY:

Okay. We're very supportive of this, we think it's appropriate.

LEG. CARACAPPA:

I know you and your division have been great in relaying that to me and the changes that you think would be important and prudent to make sure that the legislation was bullet proof, so to speak. And hopefully we can get on the same page here quickly.

COMMISSIONER BRADLEY:

Okay.

LEG. CARACAPPA:

We'll have our public hearings next week and move this forward, because I think it's -- in the sense of the bill in general, it's something that I just couldn't believe was not really on the books yet as regard to Local Law. And having some really nasty stories to tell, but I won't at this point, with homeowners having bought homes unknowing of what their wells consisted of, it made me jump to it and put something in place. And I appreciate your support on that.

CHAIRPERSON FIELDS:

Okay. Do we have a motion?

LEG. CARACAPPA:

So Paul, I would ask that you incorporate the change that the Commissioner just said as well as the disclaimer.

MR. SABATINO:

Disclaimer clause, okay.

LEG. CARACAPPA:

And hopeful that could be done as soon as possible.

MR. SABATINO:

It's subject to a public hearing, so we're not going to be any worse off. I anticipated some changes being made.

LEG. CARACAPPA:

Okay thank you.

LEG. CARACCIOLO:

Madam Chair, while we're on this subject, I would also like to take this opportunity to mention to Dr. Bradley that as part of the adopted budget this year, I sponsored an amendment to the adopted budget of \$150,000 to step up the County's Well Water Protection -- well, sampling program. And I've had some conversation with Janet DeMarzo about putting that now into some type of formalizing resolution and I would welcome your input sooner rather than later so that we can take that up and get the program initiated earlier this year than later in the year.

COMMISSIONER BRADLEY:

Sure.

LEG. CARACCIOLO:

Thank you.

CHAIRPERSON FIELDS:

Okay. Motion to table?

LEG. CARACAPPA:

Motion to table pending a public hearing.

CHAIRPERSON FIELDS:

Second?

LEG. CRECCA:

Second.

CHAIRPERSON FIELDS:

Legislator Crecca seconds. All in favor? Opposed? **Tabled (Vote: 5-0-0-0).**

1148-00 - Initiating affordable health insurance program for Long Island small businesses (Levy).

LEG. CARACAPPA:

Explanation.

LEG. CRECCA:

Explanation, please, yeah, I was just going to ask the same thing.

LEG. CARACCIOLO:

This is a good one. Motion to table.

MR. SABATINO:

It was tabled in prime because there were going to be some changes.

LEG. FOLEY:

All right, defer to prime.

LEG. CARACAPPA:

No, motion to table.

LEG. CARACCIOLO:

Second.

LEG. CRECCA:

Motion to -- I think Mr. Caracciolo seconded the motion to table.

CHAIRPERSON FIELDS:

Okay? All in favor? Opposed? Approved. **Tabled (Vote: 5-0-0-0).**

1208-00 (P) - Accepting and appropriating additional 100% State Grant Funds to the Department of Health Services, Division of Mental Hygiene Services, from the New York State Office of Mental Health for Compulsive Gambling Program (County Executive).

LEG. CARACCIOLO:

Motion to approve.

LEG. CARACAPPA:

Second.

CHAIRPERSON FIELDS:

Same motion, same second. Opposed? **Approved (Vote: 5-0-0-0).**

1209-00 (P) - Accepting and appropriating additional 100% State Grant Funds to the Department of Health Services, Division of Mental Hygiene Services, from the New York State Office of Mental Health through Reinvestment/Homeless MICA Funds for the development of a 50 Bed Service Enriched Single Room Occupancy Program (County Executive).

LEG. CARACCIOLO:

Motion to approve.

LEG. CARACAPPA:

Second.

CHAIRPERSON FIELDS:

Same motion, same second. Opposed? **Approved (Vote: 5-0-0-0).**

1213-00 (P) - Amending the Department of Health Services 2000 Adopted Budget to reallocate funds among 100% state Grant Funded Contract agencies in the division of Community Mental Hygiene Services (County Executive).

LEG. CARACCIOLO:

Motion to approve.

CHAIRPERSON FIELDS:

Same motion, same second. Opposed? **Approved (Vote: 5-0-0-0).**

1219-00 (P) - Reappropriating a donation from Mr. Barry Charles to the Department of Health Services for the

Services to Children with Special Health Care Needs Program (County Executive).

LEG. CARACCILO:

Motion to approve.

CHAIRPERSON FIELDS:

Same motion, same second. Opposed? **Approved (Vote: 5-0-0-0).**

LEG. FOLEY:

Just by being here, Lou, you didn't have to say a word.

Tabled Sense Resolutions

CHAIRPERSON FIELDS:

Sense No. 7-2000 - Memorializing Resolution requesting the State of New York to continue funding for La Union Hispanica in Suffolk County (Postal).

LEG. CARACCILO:

Motion to table.

LEG. CARACAPPA:

Subject to call.

CHAIRPERSON FIELDS:

Do we have a second?

LEG. CARACCILO:

Yeah, I will second that.

CHAIRPERSON FIELDS:

Okay. Anyone opposed? **Tabled subject to call (Vote: 5-0-0-0).**

Introductory Sense Resolutions

Sense No. 16-2000 - Memorializing Resolution Requesting State of New York to enact health mandate reimbursement fund (Fields).

LEG. CRECCA:

Explanation, please.

CHAIRPERSON FIELDS:

I gave you some back up on this.

LEG. CRECCA:

Is this the memo?

CHAIRPERSON FIELDS:

Do you have that?

LEG. FOLEY:

It's the memo, yeah, everyone has it.

LEG. CRECCA:

It's the memo that was left on the table this morning?

CHAIRPERSON FIELDS:

Yeah.

LEG. CRECCA:

Oh, I didn't read it, no. I apologize.

LEG. CARACAPPA:

No, this is Family Health Plus.

MR. SABATINO:

This deals with the proposed Family Health Plus Program which, under the Health Care Reform Act of the Year 2000 being proposed, will impose a 25% unfunded mandate on municipalities such as Suffolk County. Budget Review, in fact, just distributed a memo which shows what the dollar impact would be. I looked at it earlier this morning, I think Suffolk County alone is --

LEG. CARACCILOLO:

Fourteen million

MR. SABATINO:

-- going to get \$14.26 million over a three year period of time.

LEG. CARACCILOLO:

Fourteen point two six.

MR. SABATINO:

So what this legislation does is it asks for a particular bill that's up in Albany right now that would take away that mandate by having the funds provided by the State from the non earmarked portions of the cigarette and tobacco tax which is an undedicated portion of that huge fund which would have the impact of alleviating Suffolk County the burden of raising that \$14.26 million.

LEG. CARACCILOLO:

Who are the Senate and Assembly sponsors, Paul, do you know?

LEG. FOLEY:

It's on the last page.

MR. SABATINO:

Yeah, I've got that right over here. Senate is a gentleman named Neil Breslin and the Assembly is a gentleman named Ronald Canestrari and Jack McKenny.

MR. MAIMONI:

Both houses support it.

LEG. FOLEY:

Is it a unity bill or is it two separate bills?

LEG. CARACCILOLO:

No, it's not a unity.

MR. MAIMONI:

Bruno supports it and Silver supports it.

LEG. FOLEY:

All right.

CHAIRPERSON FIELDS:

That was your question?

LEG. CARACAPPA:

Thank you.

LEG. CARACCIOLO:

Does the Governor support it?

LEG. CARACAPPA:

That's another question, does the Governor support it?

MR. MAIMONI:

No.

LEG. CARACAPPA:

Well, we'll soon find out about that.

LEG. FOLEY:

That should not influence it.

LEG. CARACAPPA:

Just along those lines, I know it's a Sense Resolution and it's just dealing with Suffolk County. But seeing that Suffolk County, and we're a very large County, is 14.26 million, does anyone have the number total for the 25% throughout the State for the counties?

MR. SABATINO:

It's 364 million.

LEG. CARACAPPA:

Three hundred throughout?

MR. SABATINO:

Well, that's for all the counties.

LEG. CARACAPPA:

Oh, here it is, okay, 364. And both of those bills will deal with that, that shortfall.

MR. SABATINO:

Yeah, the State legislation is not just for Suffolk County, it's across the board for all municipalities. Suffolk county is asking for support of that legislation, the collateral benefit of which will obviously be to Suffolk County.

LEG. CARACAPPA:

And I know the program is about to be signed by the Governor. What are the chances of -- I guess this isn't the place to ask this.

LEG. FOLEY:

There is an answer to that.

LEG. CARACAPPA:

But my question is -- well, my desire would be I hope that as that bill is signed by the Governor, that simultaneously this bill is passed in the Senate and the Assembly so that there is no loophole there in regards to time. And it makes our job in the County and through Counties throughout the State of New York a little easier in dealing with this non funded mandate.

LEG. FOLEY:

If I could just answer that. Madam Chair, just to answer Legislator Caracappa's excellent question, it has been enacted, the Governor proposes to have the Counties place this on their added Medicaid or added burden. And the two houses in the State Legislature, in the proposed budget, there are amendments being made to make this wholly a State funded program, but the end result of their efforts won't be known until sometime after the enactment of the law. So that's why it's very important that we have this sense resolution and also have some other ways of advocating lobbying the State to follow through on the promises that they made last year that this was not supposed to be an added burden to counties and cities, and yet the proposed gubernatorial budget for this breaks that particular promise.

LEG. CARACAPPA:

Second the motion.

CHAIRPERSON FIELDS:

Okay. I make the motion, Legislator Caracappa seconds. All in favor? Opposed? **Approved? (Vote: 5-0-0-0).**

LEG. FOLEY:

Cosponsor.

LEG. CARACCIOLO:

Cosponsor.

LEG. CRECCA:

Yeah, I'll cosponsor that also.

CHAIRPERSON FIELDS:

Okay. **Sense No. 20-2000 - Memorializing Resolution requesting the State of New York to increase fines for selling tobacco to minors (Carpenter).**

LEG. CARACCIOLO:

Motion.

LEG. FOLEY:

Second the motion.

CHAIRPERSON FIELDS:

All in favor? Opposed? **Approved (Vote: 5-0-0-0).**

Okay, thank you.

LEG. FOLEY:

Commissioner?

COMMISSIONER BRADLEY:

Yes?

LEG. FOLEY:

Outreach workers for health centers, where do we stand?

COMMISSIONER BRADLEY:

We have, I believe, two hired.

LEG. FOLEY:

Okay.

COMMISSIONER BRADLEY:

We kind of phase them in line with turnover savings, so we have two of the outreach hires, they're for the west end.

LEG. FOLEY:

Yes.

COMMISSIONER BRADLEY:

The west side, and one supervising which is actually going to be a Health Department long-term employee who is going to pick up this program. And we're going to pick them up in sets of twos.

LEG. FOLEY:

Okay. Because the turnover savings is not as much of an issue with your department considering the late amendment that we made last year in the budget process.

COMMISSIONER BRADLEY:

Correct.

LEG. FOLEY:

So I would hope that you could accelerate the hiring for those positions.

COMMISSIONER BRADLEY:

Yeah.

LEG. FOLEY:

Thank you.

(*The meeting was adjourned at 11:37 A.M.*)

**Legislators Ginny Fields
Chairperson, Health Committee**

- Denotes Spelled Phonetically